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BOOK REVIEWS.

A MANUAL OF ELEMENTARY LAW. By WALTER DENTON SMITH, Instructor in the Law Department of the University of Michigan. St. Paul: West Publishing Co. 1896.

The latest "Hornbook" should be one of the most useful of this popular series. Every student beginning the study of the law, and many after years spent in its study, feels the need of a general view of its elements, the relationship of the parts into which it is ordinarily divided, and the methods by which a knowledge of it may be acquired—a need which an introductory lecture, and occasional explanatory remarks in the class-room do not always wholly supply. With evident insight into this state of mind in the beginner, Mr. Smith has prepared the present volume. Its scope may be understood by reference to the Contents. Part I., entitled Elementary Jurisprudence, deals with the Nature of Law and the Various Systems, Government and Its Functions, Unwritten Law, Equity, Written Law, Authorities and Their Interpretation, Persons and Personal Rights, Property, Classification of the Law. Part II., entitled the Substantive Law, deals with Constitutional Law, Criminal Law, Real and Personal Property, Torts, etc. Part III., entitled the Adjective Law, deals with Remedies, Courts and Their Jurisdiction, Procedure, and Trial. The plan is good; and the treatment effective.

W. C. D., Jr.

A TREATISE ON THE LAW OF REAL PROPERTY AS APPLIED BETWEEN VENDOR AND PURCHASER IN MODERN CONVEYANCING, OR ESTATES IN FEE AND THEIR TRANSFER BY DEED. By LEONARD A. JONES, A.B., LL.B. [Harv.] Two Volumes. Boston and New York: Houghton, Mifflin & Co. 1896.

This work is dedicated to the Honorable Chief Justice Field of the Supreme Judicial Court of Massachusetts. Mr. Jones purposed to "treat of the practical parts of the general subject of Real Property which arise in ordinary conveyancing between vendor and purchaser." He does not profess to cover the entire field of Real Property Law. He has written "to state with considerable fulness the law of the topics" he has treated, and "to state the law as it now is," referring "to the old law only for the purpose of stating the principles upon which some parts of the present law are founded."

Mr. Jones is an author of reputation. His labors upon kindred subjects commend this work to the profession. He has followed in this the method pursued in his other works. The reviewer is not aware of any other treatise upon Real Property on the lines followed

by the author, and gives his heartiest endorsement to a treatise upon this plan. The author has succeeded in compiling from the innumerable decisions a working treatise upon the present law. He has acquitted himself of the task he set out to perform.

Its alternative title, *Estates in Fee and Their Transfer by Deed*, indicates the precise scope and function of the work.

About one-tenth of the two volumes is devoted to the Capacity of Persons as Vendors and Purchasers; about three-fourths to Estates in Fee and Their Transfer by Deed; the remainder is equally divided by the treatment of the Nature of Real Estate and Incidents of Ownership, and of Concurrent Ownership. This classification is a natural one and the minute subdivisions greatly aid in the investigation of any particular subject. To illustrate in general the manner of the work, we select at random several subjects very fully treated: Descriptions and Boundaries he divides, for purposes of discussion, into Certainty, Parol Evidence, Boundary Lines by Agreement, General Rules of Construction, General and Particular Descriptions, References to Maps and Surveys, Boundary by Highway, by Seas, Lakes and Rivers.

In treating Fixtures to the Realty, he divides it into What Are Fixtures, Buildings as Fixtures, Domestic Fixtures, Agricultural Fixtures, Machinery in Mills, Rolling Stock of Railroads, Rights of Mortgagees as to Fixtures, Mortgagees' Remedies for Removal of Fixtures, Tenant's Fixtures.

Conditions Precedent and Subsequent, Covenants for Title and Restrictions As to the Use of Land comprise a large part of the first volume. Recording and Notice are very fully presented in the second. Mortgages are treated only incidentally, the author having published a separate treatise upon that branch of the law.

Certain inaccuracies have struck the writer of this notice in reading the book. The author has inserted at two different places, pp. 136 and 504, respectively, a list of the states having statutes declaring that estates which, at common law, would have been adjudged estates-tail, shall constitute estates in fee-simple. These lists agree with the exception that Pennsylvania and Montana are omitted from the first list and included in the second, while upon p. 138 the author says of Montana that it contains no statutes upon estates-tail. Again, at p. 239, in the list of states, where "a pre-existing debt is a valuable consideration for an absolute conveyance or mortgage," he cites *Cummings v. Boyd*, 83 Pa. 372, and *Royer v. The Bank*, 83 Pa. 248. Upon reference to these cases it will be found that they decide the contrary, following *Ashton's Appeal*, 73 Pa. 153, which the author has cited for Pennsylvania in his list of states where such pre-existing debt is not a valuable consideration. At p. 201, the author quotes the general rule that "a deed to the heirs of a living person without naming them is void for uncertainty," and cites, *inter alia*, *Morris v. Stephens*, 46 Pa. 200. He closes this paragraph with the remark that "This rule does not apply in Pennsylvania where registry stands for livery of seisin ;

except in case the grant is of incorporeal interests which are not susceptible of livery." For this he cites *Huss v. Stephens*, 51 Pa. 282,—a case containing a dictum to that effect by C. J. Woodward. The remark of the Chief Justice was not a part of the decision, and the case does not pretend to overrule *Morris v. Stephens* (*supra*), a decision in which C. J. Woodward participated.

The work contains a complete index; the cases in the notes are usually arranged by states; and, typographically, the work could not be improved.

W. B. L.

BOOKS RECEIVED.

[Acknowledgment will be made, under this title, of all books received, and reviews will be given, as near as possible, in the order of their receipt. Those, however, marked * will not be reviewed. Books should be sent to the Editor-in-Chief, Department of Law, University of Pennsylvania, Sixth and Chestnut Streets, Philadelphia, Pa.]

TREATISES.

THE DETECTIVE FACULTY. By W. H. BAILEY, Sr., LL.D. Cincinnati: The Robert Clarke Co. 1896.

AN EXAMINATION OF THE NATURE OF THE STATE. A STUDY IN POLITICAL PHILOSOPHY. By WESTEL WOODBURY WILLOUGHBY, Ph.D., of Johns Hopkins University. New York and London: Macmillan & Co. 1896.

THE WORKS OF JAMES WILSON, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND PROFESSOR OF LAW IN THE COLLEGE OF PHILADELPHIA. By JAMES DEWITT ANDREWS. Two Volumes. Chicago: Callaghan & Co. 1896.

COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES, HISTORICAL AND JURIDICAL. By ROGER FOSTER. Three Volumes. Vol. I. Boston: The Boston Book Co. 1895.

COMMENTARIES ON THE LAW OF PRIVATE CORPORATIONS. By SEYMOUR D. THOMPSON, LL.D. Six Volumes. San Francisco: Bancroft-Whitney Co. 1895.

THE LAW OF CHARITABLE USES, TRUSTS AND DONATIONS IN NEW YORK. By ROBERT LUDLOW FOWLER, Counsellor-at-law. New York: The Diossy Law Book Co. 1896.

A PRELIMINARY TREATISE ON EVIDENCE AT THE COMMON LAW. Part I. Development of trial by Jury. By JAMES BRADLEY THAYER. Boston: Little Brown & Co. 1896.

MARKETABLE TITLE TO REAL ESTATE, being also a Treatise on the Rights and Remedies of Vendors and Purchasers of Defective Titles. By CHAPMAN W. MAUPIN. New York: Baker, Voorhis & Co. 1896.

AMERICAN RAILROAD AND CORPORATION REPORTS, ANNOTATED. By JOHN LEWIS. Vol. XII. Chicago: E. B. Myres & Co. 1896.

A MANUAL OF COMMON SCHOOL LAW. By C. W. BARDEEN. Syracuse, N. Y.: C. W. Bardeen, Publishers. 1896.

HANDBOOK ON THE LAW OF DAMAGES. By WM. B. HALE. St. Paul: West Pub. Co. 1896.